IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Smt. Mala Motwani & Ors. Vs. Daulat Motwai & Anr.

S.B.CR.MISC. PETITION NO.1477/2006

DATE OF ORDER :: November 24, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

None present for the petitioners.

BY THE COURT:

No one appears for the petitioners.

I have perused the memo of petition filed by the petitioners under section 482 Cr.P.C. challenging the order dt. 22.8.2005 passed by the Sessions Judge, Pali (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioners was partly allowed and the order passed by the Additional Chief Judicial Magistrate, Pali (for short `the trial court' hereinafter) granting monthly allowance of maintenance was maintained to the extent that each of the children will get a sum of Rs.700/- per month from the date of application till the

date of order i.e. 2.5.2005. However, from 2.5.2005, onwards the maintenance amount was enhanced from Rs.700/- to Rs.1000/- totaling Rs.2000/-. However, maintained the order of the trial court to the extent denying monthly allowance of maintenance to petitioner No.1 on the ground that in a petition filed by her against her husband for dissolution of marriage, maintenance allowance has been granted to her under section 24 of the Hindu Marriage Act as also her husband non-petitioner has provided her a residential house and bears the expenses of water and electricity and also that she herself is an earning member and capable to maintain.

On careful perusal of the order of the trial court as well as the revisional court, in my view the revisional court was justified in enhancing the monthly allowance of maintenance from Rs.700/- to R.1000/- in favour of petitioners No.2 and 3 and in my view, no further enhancement is warranted in granting the monthly allowance of maintenance.

So far as petitioner No.1 is concerned, both the courts below concurrently did not find the petitioner No.1 entitled for maintenance on the ground that she herself willfully and without any sufficient cause deserted her husband non-petitioner No.1., and in my view, rightly so.

In the circumstances, therefore, the petition has no force and the same is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-